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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/535,498	05/18/2005	Rahul K Dharmadhikary	AWL-223-2002	3901
44702 7590 02/15/2007 OSTRAGER CHONG FLAHERTY & BROITMAN PC 250 PARK AVENUE, SUITE 825 NEW YORK, NY 10177			EXAMINER SALVATORE, LYNDIA	
			ART UNIT	PAPER NUMBER
			1771	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		02/15/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/535,498	<b>Applicant(s)</b> DHARMADHIKARY ET AL.	
	<b>Examiner</b> Lynda M. Salvatore	<b>Art Unit</b> 1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 18 May 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>5/18/05</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-2, 5-8, 10-13, 16-19 and 21-24 rejected under 35 U.S.C. 102(e) as being anticipated by Griesbach, III et al., US 2004/0123939 A1.

The published patent application issued to Griesbach et al., teaches a non-woven film laminate having barrier properties (title and abstract). Said laminate resists penetration by liquids and viruses (abstract). Griesbach et al., teach joining a spun-bonded non-woven layer having a basis weight ranging from 20-60 gsm to a multi-layer film (section 0046, 0064 and 0050). Said fabric layer is made with polyethylene or polypropylene (section 0059). Said multi-layer film comprises a core layer comprising blends of polypropylenes and two skin layers comprising blends of polyolefins, ethylene acrylic acid etc. (sections 0050-0053). Said film layers have a basis weight less than 20 gsm (section 0074). Griesbach et al., teach positioning the multi-layer film between two outer non-woven layers (section 0046).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Griesbach, III et al., US 2004/0123939 A1 as applied to claims 1 and 12 above, in view of

Morman et al., US 2004/0091752.

Griesbach et al., fails to teach a barrier layer comprising low density polyethylene, however, the patent issued to Morman et al., teach a film comprising either linear low density polyethylene or low density polyethylene (section 0044). Said film is employed in a laminate structure where liquid impermeability properties are desired (abstract). It appears that the polyolefins employed by Griesbach et al., are functionally equivalent to the low density polyethylene polymers of Morman for the desired use of forming an impermeable film.

Therefore, absent unexpected results, it is the position of the Examiner that it would be obvious to one having ordinary skill in the art at the time the invention was made to select a known equivalent polyolefin material as a function of availability, cost of ease of production.

5. Claims 4, 9, 15 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Griesbach, III et al., US 2004/0123939 A1 as applied to claims 1 and 12, in view of Sharps, Jr.,

US 4,606,970.

Griesbach et al., fails to teach employing dry adhesive to bond the film to the non-woven layers, however, the patent issued to Sharps, Jr., teaches using dry adhesive to form a non-woven film laminate (column 4, 2-50). Sharps, Jr., also teach a variety of other adhesive laminating methods such as spray adhesive and heat lamination (column 2, 10-20). It appears that each of these lamination methods are suitable to form the non-woven film laminate and

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each method is considered obvious over the other. To that end, it is the position of the Examiner that it would be obvious to one having ordinary skill in the art at the time the invention was made to laminate the multi-layer film of Griesbach et al., to the non-woven fabric layers with dry adhesive as taught by Sharps, Jr.

Sharps, Jr., fails to teach the claimed amount of dry adhesive, however, it is the position of the Examiner that it would be obvious to one of ordinary skill in the art at the time the invention was made to optimize the amount of dry adhesive as a function of adhesiveness. It has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F. 2d 272, 205 USPQ 215 (CCPA 1980)

Griesbach et al., also fails to teach a film layer comprising the claimed blend of low and linear low density polyethylene, however, the patent issued to Sharps Jr., teach forming a film from a blend of low and linear low density polyethylene (column 2, 40-46). Sharps, Jr., teaches that the film exhibits enhanced puncture resistance and strength properties.

Therefore, motivated by the desire to produce a film with enhanced puncture resistance and strength properties, it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the film of Griesbach et al., with the blend of low and linear low density polyethylene taught by Sharps, Jr.

### ***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynda M. Salvatore whose telephone number is 571-272-1482. The examiner can normally be reached on M-F.

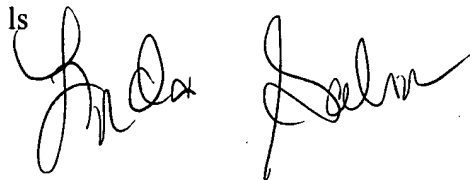
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

February 3, 2007

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Handwritten signature of Linda Salm in cursive script.